

**CIVIL CASE NO. 3:06cv178**

## Defendants.

## ORDER

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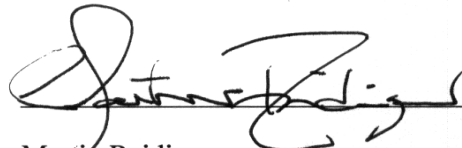
of fact and conclusions of law in support of a recommendation regarding the Motion to Dismiss [Doc. 13] and the Renewed Motion to Dismiss [Doc. 24] filed by the Defendant Sterling and King, Inc. The parties were advised that any objections to the Magistrate Judge's findings were to be filed in writing within ten (10) days of service of the Recommendation. The period within which to file objections expired on November 16, 2007. No written objections to the Memorandum and Recommendation have been filed.

After a careful review of the Magistrate Judge's Recommendation, the Court finds that the proposed findings of fact are supported by the record and that the proposed conclusions of law are consistent with current case law. Accordingly, the Court hereby accepts the Magistrate Judge's Recommendation [Doc. 39] that the Motion to Dismiss [Doc. 13] and the Renewed Motion to Dismiss [Doc. 24] filed by the Defendant Sterling and King, Inc. should be granted as to the Plaintiff's fourth cause of action and denied as to the Plaintiff's second, third, and fifth causes of action, as well as to the Defendant's arguments for dismissal based on lack of jurisdiction and insufficient process.

**IT IS, THEREFORE, ORDERED** that the Defendant Sterling and King, Inc.'s Motion to Dismiss [Doc. 13] and Renewed Motion to Dismiss [Doc. 24] are **GRANTED IN PART** and **DENIED IN PART**. The motions are **GRANTED** with respect to the Plaintiff's fourth cause of action. In all other respects, the motions are **DENIED**.

**IT IS SO ORDERED.**

Signed: November 28, 2007

  
Martin Reidinger  
United States District Judge

